

**No. 20768**

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**FRANCE  
and  
INDONESIA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Jakarta on 14 September 1979**

*Authentic texts: French and Indonesian.*

*Registered by France on 25 February 1982.*

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**FRANCE  
et  
INDONÉSIE**

**Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Jakarta le 14 septembre 1979**

*Textes authentiques : français et indonésien.*

*Enregistrée par la France le 25 février 1982.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FRENCH  
REPUBLIC AND THE GOVERNMENT OF THE INDONESIAN  
REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION WITH RE-  
SPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the French Republic and the Government of the Republic of Indonesia,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

*Article 1. PERSONAL SCOPE*

This Convention shall apply to persons who are residents of one Contracting State or of each of the two States.

*Article 2. TAXES COVERED*

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State, its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are:

a) In the case of France:

- (1) The income tax;
- (2) The company tax;

including any withholding tax, prepayment or advance payment with respect to the aforesaid taxes

(Hereinafter referred to as "French tax").

b) In the case of Indonesia:

- (1) The income tax (*Pajak Pendapatan*);
- (2) The company tax (*Pajak Perseroan*);
- (3) The capital tax (*Pajak Kekayaan*);

including any withholding tax, prepayment or advance payment with respect to the aforesaid taxes, and

<sup>1</sup> Came into force on 13 March 1981, i.e., one month after the date of the last of the notifications (effected on 27 March 1980 and 13 February 1981) by which the Parties informed each other of the completion of the procedures required by their law, in accordance with article 30 (1).

- (4) The tax on dividends, interest and royalties (*Pajak atas Bunga, Dividen dan Royalty*)

(Hereinafter referred to as "Indonesian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any important changes which have been made in their respective taxation laws.

### Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

a) The terms "a Contracting State" and "the other Contracting State" mean, according to the context, France or Indonesia;

b) The term "France" means the European and overseas departments of the French Republic, including the zones situated outside territorial waters adjacent to these departments over which, in accordance with international law, France may exercise rights with respect to the sea bed, the subsoil and their natural resources;

c) The term "Indonesia" means the territory of the Republic of Indonesia as defined by its laws and the parts of the continental shelf and the adjacent seas, over which the Republic of Indonesia has the sovereignty of sovereign rights or other rights in accordance with international law;

d) The term "person" includes an individual, a company and any other body of persons;

e) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

f) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

g) The term "national" means:

- (1) Any individual possessing the nationality of a Contracting State;
- (2) Any legal person, partnership and association deriving its status as such from the legislation in force in a Contracting State;

h) The term "competent authority" means:

- (1) In the case of France, the Minister of the Budget or his authorized representative;
- (2) In the case of Indonesia, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes which are the subject of the Convention.

*Article 4. FISCAL DOMICILE*

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, but it does not include persons who are taxable in that State only in respect of the income they derive from sources situated in the said State or in respect of the capital situated in that State.

2. Where, by reason of the provisions of paragraph 1, an individual is considered as a resident of each of the Contracting States, his status shall be determined as follows:

- a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in each of the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either of the Contracting States, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- c) If he has an habitual abode in each of the Contracting States or if he has an habitual abode in neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where, by reason of the provisions of paragraph 1, a person other than an individual is deemed to be a resident of each of the Contracting States, it shall be deemed to be a resident of the State in which its place of effective management is situated. If a place of effective management is deemed to be situated in each of the Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

*Article 5. PERMANENT ESTABLISHMENT*

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business where the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) A place of management;
- b) A branch;
- c) An office;
- d) A factory;
- e) A workshop;
- f) A farm or plantation;
- g) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- h) A construction or assembly site in operation for more than six months.

3. A permanent establishment shall be deemed not to exist if:

- a) Use is made of facilities solely for the purpose of storage or display of goods belonging to the enterprise;
- b) Stocks of goods belonging to the enterprise are maintained solely for the purpose of storage or display;
- c) Stocks of goods belonging to the enterprise are maintained solely for the purpose of processing by another enterprise;
- d) A fixed place of business is used solely for the purpose of purchasing goods or collecting information for the enterprise;
- e) A fixed place of business is used for the enterprise, solely for the purposes of publicity, supply of information, scientific research or similar activities which have a preparatory or auxiliary character.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 6 applies—shall be considered as a permanent establishment in the first-mentioned State;

- a) If that person has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless the activity of such a person is limited to the purchase of goods for the enterprise; or
- b) If that person habitually maintains in that State a stock of goods belonging to the enterprise from which he regularly executes orders on behalf of the enterprise.

5. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it renders services to an enterprise of that other Contracting State, including supervisory activities related to a construction, installation or assembly site, through an employee or any other person—other than an agent of independent status to whom paragraph 6 applies—if that employee or that person remains in that other Contracting State for a period or periods exceeding a total of 183 days during a period of 12 months.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly to the business of that enterprise, he shall not be considered as an agent of independent status within the meaning of this paragraph if it is proved that the transactions between the agent and the enterprise have not been concluded under conditions of full agreement.

7. An insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other State or insures risks situated therein by an agent, an employee or a representative who is not an agent of independent status to whom paragraph 6 applies. This provision shall not apply to the reinsurance activities of such an enterprise.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

*Article 6. INCOME FROM IMMOVABLE PROPERTY*

1. Income from immovable property, including income from agriculture or forestry, shall be taxable in the Contracting State where such property is situated.

2. The term “immovable property” shall have the meaning which it has under the fiscal law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

*Article 7. BUSINESS PROFITS*

1. The profits of an enterprise of a Contracting State shall be taxable only in that State, unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of the Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall, in each Contracting State, be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary, in a Contracting State, to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year, unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall not be affected by the provisions of this article.

#### *Article 8. SHIPPING AND AIR TRANSPORT*

1. The profits which an enterprise derives from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise is a resident.

2. The provisions of paragraph 1 shall also apply to the profits which an enterprise derives from participation in a pool, a joint business or an international operating agency but only to the portion of the profits thus obtained which accrue to the participant in a joint international enterprise in proportion to his share in the joint operations.

#### *Article 9. ASSOCIATED ENTERPRISES*

Where:

- a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and, in either case, conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

#### *Article 10. DIVIDENDS*

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends.
- b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of a company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distributions is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of article 7 or article 14, as the case may be, shall apply.

5. A resident of Indonesia who receives dividends distributed by a company resident in France may obtain reimbursement of the prepayment relating to these dividends paid, should such be the case, by the distributing company. This prepayment shall be reimbursed by deduction from the tax levied in conformity with domestic legislation and the provisions of paragraph 2.

The gross amount of the reimbursed prepayment shall be considered as a dividend for the purpose of the general application of the provisions of this Convention.

6. When a company resident of one Contracting State has a permanent establishment in the other Contracting State, the profits of this permanent establishment may, after having borne the tax on profits, be subjected under the legislation of that other Contracting State to a tax the amount of which may not exceed 10 per cent.

#### Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged may not exceed 15 per cent of the amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this article, the tax charged by the Contracting State in which the interest arises shall not exceed 10 per cent of the gross amount of the interest, if:

- a) The interest is paid by a bank, a financial institution or by an enterprise mainly engaged in activities in the fields of agriculture, plantations, forestry, fishery, mining, manufacturing, industry, transport, people’s housing projects, tourism and infrastructure, and
- b) The interest is paid to a bank or to another enterprise.



4. Notwithstanding the provisions of paragraph 2 of this article, the interest arising in a Contracting State is taxable in the other Contracting State only when it is paid:

- a) To that other Contracting State or a body corporate in public law of the State, or
- b) To an enterprise of that other Contracting State by reason of loans or credits consented with the participation of a public financing institution of that other State and with the agreement of the Minister of Economic and Financial Affairs or of Planning in the first-mentioned Contracting State, in connection with the sale of any industrial or scientific equipment or with the study, installation or provision of industrial or scientific establishments, or public works.

5. The term "interest" as used in this article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

6. The provisions of paragraphs 1, 2, 3 and 4 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a body corporate in public law or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 12. ROYALTIES*

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is

the beneficial owner of the royalties, the tax so charged may not exceed 10 per cent of the royalties.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films and works recorded for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of the special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 13. CAPITAL GAINS*

1. Gains derived from the alienation of immovable property, as they are defined in paragraph 2 of article 6, or from the alienation of shares or similar rights in a company dealing with immovable property or in a company whose assets are composed mainly of immovable property may be taxed in the Contracting State in which this property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in the other State. However, the gains arising from the alienation of movable property referred to in paragraph 3 of article 23 are taxable only in the Contracting State where the property in question itself is taxable by virtue of the said article.

3. Gains from the alienation of all property other than that mentioned in paragraphs 1 and 2 is taxable only in the Contracting State where the alienator is a resident.

*Article 14. INDEPENDENT PERSONAL SERVICES*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State, except when the resident has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a base, the income is taxable in the other State but only in so far as it is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

*Article 15. DEPENDENT PERSONAL SERVICES*

1. Subject to the provisions of article 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of paid employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in the other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of paid employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days during any 12-month period;
- b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c) The remuneration is not borne by a permanent establishment or fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of paid employment exercised aboard a ship or aircraft operated in international traffic is taxable in the Contracting State of which the enterprise operating the ship or aircraft is a resident.

*Article 16. DIRECTORS' FEES*

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors or similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

*Article 17. ENTERTAINERS AND ATHLETES*

1. Notwithstanding the provisions of articles 14 and 15, income which entertainers, such as theatre, motion picture, radio or television artistes or musicians, or athletes derive from their personal activities as such may be taxed in the Contracting State where those activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraph 1, the remuneration or profits and the salaries, wages and other similar income which entertainers and athletes derive from their personal activities as such in a Contracting State may only be taxed in the other Contracting State if their stay in the first-mentioned Contracting State is financed in a large proportion by public funds of that other Contracting State, of one of its political subdivisions or local authorities, or of one of its bodies corporate in public law.

4. Notwithstanding the provisions of paragraph 2, if the income from activities personally exercised by an entertainer or athlete in a Contracting State is attributed to a person not the artiste or athlete himself, notwithstanding the provisions of articles 7, 14 and 15, it may be taxed only in the other Contracting State when such a person is financed in a large proportion by public funds of that other Contracting State, of one of its political subdivisions or local authorities, or of one of its bodies corporate in public law.

#### *Article 18. PENSIONS*

1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, social security pensions paid by a social security body of the Contracting State shall be taxable only in that Contracting State.

#### *Article 19. GOVERNMENT SERVICE*

1. *a)* Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof, or by one of its bodies corporate in public law to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

*b)* However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and if the beneficiary of the remuneration is a resident of that Contracting State who possesses the nationality of that State.

2. Any pension paid by a Contracting State or one of its political subdivisions or local authorities, or by one of its bodies corporate in public law, either directly or by prepayment out of funds they have constituted, to an individual in respect of services rendered to that State or that subdivision or authority, or to that body corporate in public law, are taxable only in that State.

3. The provisions of articles 15 and 16 shall apply to remuneration paid in respect of services rendered as an industrial or commercial activity exercised by one of the Contracting States or one of its political subdivisions or local authorities, or by one of its bodies corporate in public law.

*Article 20. STUDENTS*

1. Payments which a student or business apprentice who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training are not taxable in that State, provided that such payments arise from sources outside that State.

2. Notwithstanding the provisions of paragraph 1, the remunerations which a student or a business apprentice who is or was formerly a resident of a Contracting State and who remains in the other Contracting State for the sole purpose of his education or training receives in respect of services rendered in that State, are not taxable in that other State, provided these services are related to his education or training or provided that remuneration for these services is necessary to supplement the resources he has for his maintenance.

*Article 21. TEACHERS AND RESEARCHERS*

1. A teacher or a researcher who, being a resident of a Contracting State, visits the other Contracting State for teaching or research purposes shall be exempt from tax in that other State for a period not exceeding two years in respect of remuneration derived from such teaching or research activities.

2. This article shall not apply to income from research work if such work is not undertaken in the public interest but mainly with a view to achieving a particular advantage benefiting one or more specific persons.

*Article 22. OTHER INCOME*

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention, shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of article 7 or of article 14, as the case may be, shall apply.

*Article 23. CAPITAL*

1. Capital represented by immovable property, as defined in paragraph 2 of article 6, may be taxed in the Contracting State in which this property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise or represented by movable property pertaining to a fixed base available to a resident of a Contracting State for the purpose of performing independent personal services may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic by an enterprise and movable property involved in their operation may be taxed only in the Contracting State of which the enterprise is a resident.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

*Article 24. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION*

Double taxation shall be avoided in the following manner:

1. In the case of Indonesia:

*a)* Indonesia may include in the base upon which the taxes mentioned in article 2, paragraph 3 *b)* are imposed the items of income or of capital which, according to the provisions of this Convention, may be taxed in France.

*b)* Subject to the provisions of subparagraph *c)* below, Indonesia shall allow a deduction from the tax computed in conformity with subparagraph *a)* of this article equal to such part of that tax which bears the same proportion to the afore-said tax as the part of the income or capital which is included in the base of that tax and may be taxed in France according to the provisions of this Convention, bears to the total income or capital which forms the base for the Indonesian tax.

*c)* When a resident of Indonesia receives income which, in accordance with the provisions of article 10, paragraph 2, article 11, paragraphs 2 and 3, or article 12, paragraph 2, is taxable in France, Indonesia shall grant as a deduction from the Indonesian tax on the income of that person an amount equal to the tax paid in France on that income. However, this deduction may not exceed that part of the Indonesian tax which is calculated in accordance with subparagraph *a)* as related to income received from France.

*d)* When a resident of Indonesia obtains gains which are taxable in France in accordance with the provisions of article 13, Indonesia shall grant a deduction from the tax levied on these gains, equal to the tax paid in France.

2. In the case of France:

*a)* Income other than that referred to in subparagraph *b)* below is exempt from the French taxes mentioned in subparagraph *a)* of paragraph 3 of article 2, when this income is taxable in Indonesia under this Convention.

*b)* The income referred to in articles 10, 11, 12, 14, 16 and 17 and derived from Indonesia is taxable in France. The Indonesian tax levied on this income entitles residents of France to a tax deduction corresponding to the amount of the Indonesian tax levied but may not exceed the amount of the French tax on this income. This deduction is attributable to the taxes referred to in subparagraph *a)* of paragraph 3 of article 2 within the tax bases in which the income in question is included.

*c)* Notwithstanding the provisions of subparagraphs *a)* and *b)* above, French tax shall be calculated on the income taxable in France under this Convention, at a rate corresponding to the total income that is taxable under French legislation.

*d)* In cases where Indonesian tax charged on dividends, interest or royalties is not levied at all or is levied at a rate inferior to those laid down in article 10, paragraph 2 *a)* for dividends, article 11, paragraph 3, for interest or article 12, paragraph 2, for royalties because of special incentives provided for in Indonesian legislation in order to promote economic development in Indonesia, the deduction mentioned in subparagraph *b)* above shall be equal to the tax laid down with respect to dividends in article 10, paragraph 2 *a)*, with respect to interest in article 11, paragraph 3, and with respect to royalties in article 12, paragraph 2.

*Article 25. NON-DISCRIMINATION*

1. Nationals of a Contracting State who are residents of one of the Contracting States, shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision may not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subject in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. The term "taxation" means in this article the taxes to which this Convention applies.

*Article 26. MUTUAL AGREEMENT PROCEDURE*

1. When a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. This competent authority shall endeavour, if the objection appears to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Convention. They may also consult together with a view to the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. If oral exchanges of views seem likely to facilitate this agreement, such exchanges of views may take place within a commission composed of representatives of the competent authorities of the Contracting States.

5. The competent authorities of the Contracting States shall regulate by mutual agreement the modalities of application of this Convention and in particular the formalities to be accomplished by residents of one Contracting State to obtain, in the other Contracting State, the reductions and exemptions from taxes on income referred to in articles 10, 11 and 12 and derived from that other State.

#### Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention in so far as the taxation thereunder is in conformity with the Convention. The information so exchanged shall be kept secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) responsible for the assessment, collection or recovery of the taxes which are the subject of this Convention or for proceedings, claims and appeals concerning these taxes.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- a) To carry out administrative measures at variance with the laws and administrative practice of the other Contracting State;
- b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

#### Article 28. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their domestic staff, members of consular posts and members of permanent delegations, either under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of article 4, any individual who is a member of a diplomatic mission, a consular post or a permanent delegation of a Contracting State who is situated in the other Contracting State or in a third State is considered for the purposes of this Convention to be resident of the accrediting State, provided:

- a) That, in conformity with international law, that individual is not taxable in the receiving State on income from a source outside that State, and
- b) That such an individual is subjected in the accrediting State to the same obligations in the matter of taxes on his worldwide income as the residents of the said State.

3. The Convention shall not apply to international organizations, to organs and officials thereof and to persons who are members of a diplomatic mission, a consular post or a permanent delegation of a third State, being present in one Contracting State and not treated in either State as residents in respect of taxes on income and capital.



*Article 29.* TERRITORIAL SCOPE

1. This Convention may be extended, as such or with any necessary modifications, to the overseas territories of the French Republic, which impose taxes of a character similar to those to which the Convention applies. Any such extension shall take effect from the date, with such modifications and conditions, including conditions as to termination, which is fixed by mutual agreement between the Contracting States by an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

2. Unless the two Contracting States agree otherwise, when the Convention is denounced by one of them under article 31, it shall cease to apply, under the conditions laid down in that article, to any territory to which it has been extended under this article.

*Article 30.* ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other of the completion of the procedures required under its legislation for the entry into force of this Convention. It shall enter into force one month after the date of the last of these notifications.

2. Its provisions shall apply for the first time:

- a) In respect of the taxes levied by withholding at source on dividends, interest and royalties, to sums payable as from the date of entry into force of the Convention;
- b) In respect of other income taxes, to the income obtained during the calendar year in which the Convention entered into force or relating to the financial exercise closed during that year;
- c) In respect of capital taxes, to capital taxable in respect of the calendar year in which the Convention entered into force.

*Article 31.* DENUNCIATION

1. This Convention shall remain in force indefinitely. However, after 1981, each of the Contracting States may, after a minimum notice of six months by diplomatic channel, denounce it for the end of a calendar year.

2. In this case, its provisions shall apply for the last time:

- a) In respect of taxes levied by withholding at source, to sums payable at the latest on 31 December of the calendar year for the end of which the denunciation has been notified;
- b) In respect of other income taxes, to the income obtained during the calendar year for the end of which the denunciation has been notified or relating to the financial exercise closed during that year;
- c) In respect of capital taxes, to capital taxable in respect of the calendar year for the end of which the denunciation has been notified.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose by their respective Governments, have signed this Convention.

DONE at Jakarta, on 14 September 1979, in two copies, in the French and Indonesian languages, the two texts being equally authentic.

For the Government  
of the French Republic:  
[R. SERVOISE]

For the Government  
of the Indonesian Republic:  
[M. KUSUMAATMADJA]

### PROTOCOL

At the time of signature of the Convention between the Government of the French Republic and the Government of the Indonesian Republic for the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income and capital, the undersigned have agreed that the following provision should constitute an integral part of this Convention:

“It is understood that the profits from the operation of shipping in the sense of article 8 can be realized only by an enterprise which exercises a maritime transport activity for its own account and under its own personal responsibility.”

DONE at Jakarta, on 14 September 1979, in two copies, in the French and Indonesian languages, the two texts being equally authentic.

For the Government  
of the French Republic:  
[R. SERVOISE]

For the Government  
of the Indonesian Republic:  
[M. KUSUMAATMADJA]

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